

**G. Lee Cross III, MD
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October 19, 2023

RULE 26
FOR
Kincade-Broughton v. Walmart
CAFN: 1:22-CV-04229-ELR
USDC N Georgia

AFFIDAVIT of G. Lee Cross III, MD

1 – My name is George Lee Cross III, MD

2 – I am of legal age and otherwise competent to testify.

3 – I have personal knowledge of the facts set forth below.

4 – I am duly licensed to practice medicine in the State of Georgia, and have been so licensed continuously since August 1974.

5 – I am a graduate of the Emory University School of Medicine and completed my residency at Georgia Baptist Medical Center and Scottish Rite Hospitals.

6 – I am an orthopaedic surgeon in Atlanta, Georgia. My experience includes general orthopaedics and spine surgery. I am board certified in orthopaedic surgery, passing the boards in September 1979.

7 – My credentials and publications are more fully set forth in my Curriculum Vitae attached hereto as “Exhibit A.”

8 – I have reviewed a number of medical and other records of Ms. Kincade-Broughton in order to evaluate Ms. Kincade Broughton’s claimed injuries.

9 – My method of evaluation of Ms. Kincade-Broughton’s claimed injuries is scientifically sound and recognized by physicians for decades.

DEFENDANT’S
EXHIBIT

D

10 – Physicians routinely and reasonably rely on medical records created by other physicians in evaluating a patient's injury, as well as any accounts of the incident in which the patient claims to have been injured.

11 – The methodology and basis for my opinions concerning Ms. Kincade-Broughton are as follows:

I performed a detailed review of the following records:

Photos of the scene of the incident
Security videos of the incident of 8/30/20 beginning at 1303
Associate Witness Statement
Customer Incident Report
WellStar Cobb Hospital Records
WellStar Cobb Primary Care Records
AICA Orthopedics records
Oasis Financial – no medical evidence
Walgreens Pharmacy
Sheldon Sports and Spine
Dignity Health Emerus – West Flamingo
Choice One Physical Therapy records
Omni Patient Medical – no medical evidence
Legacy Brain and Spine emailed letter regarding Dr. Elshihabi's surgical recommendation
Legal Bay Lawsuit Funding – no medical evidence
Gill Obstetrics and Gynecology
Health Plan of Joaquin – no medical records
HPSJ_T. Broughton – no medical records
Talitha Broughton Affidavit – no medical records
Pacific Sleep Disorders
Workman's Compensation and Previous Medical pdf 706 pages
Plaintiff's Deposition 1/18/23

I used my over 40 years experience as a board certified orthopaedic surgeon evaluating and treating back, neck and extremity problems including spinal and extremity surgery;

I used by 23 years of teaching residents in orthopaedic surgery including the evaluation of back, neck and extremity problems, including medical records review,

imaging review, bedside examination of patients, and demonstrating during surgical procedures; and

I used my nearly 20 years of continuous records review of claims for disability to the Social Security Administration and 10 years of continuous review of disability applications for the Employee Retirement System of Georgia.

12 – After review of the cited medical records, I find the plaintiff did not suffer a structural injury to her left shoulder, neck, low back, left hip or any other part of her body in the fall at issue. The left shoulder and cervical MRIs in the current evidence are essentially unchanged from the left shoulder and cervical spinal imaging of 2014 and 2015 that were obtained as part of the continuing evaluations of 2 work related injuries in 2009 and 2011. Low back pain was documented at least as far back as 11/24/14 in the workman's compensation records cited above. While she may have experienced muscular pain and bruising from the observed fall, there is no evidence of an acute injury to her L shoulder, neck, back or left hip or any other musculoskeletal structure. Dr. Elshihabi's surgical opinion is not supported by objective evidence of a L L3 or L4 radiculopathy. The L L3-4 lateral disc protrusion described in the more current lumbar MRI is clearly not acute since there is no evidence of a L L3 or L4 radiculopathy.

13 – To a reasonable degree of medical certainty, there is no objective evidence that Ms. Kincade-Broughton suffered a structural injury to her L shoulder, neck, back, L hip or any other musculoskeletal structure in the fall in question.

Further affiant sayeth not.

A handwritten signature in black ink, appearing to read "G. Lee Cross III, MD". The signature is fluid and cursive, with "MD" written in a smaller, more formal script at the end.

G. Lee Cross III, MD

Exhibit A – a copy of my current curriculum vitae
Exhibit B – a copy of my current testimony list
Exhibit C – a copy of my current fee schedule